



**U. S. Department of Agriculture**

**Office of Inspector General**

**Evaluation Report**

**Implementation of OIG's  
Recommendations - Department's  
Civil Rights Complaint System and  
the Direct Farm Loan Program**



**Evaluation Report  
No. 50801-5-Hq  
March 1998**



UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL  
Washington D.C. 20250



**March 4, 1998**

**REPORT FOR THE SECRETARY ON CIVIL RIGHTS ISSUES**

**FROM:** Roger C. Viadero  
Inspector General

**SUBJECT:** Implementation of OIG's Recommendations--Department's Civil Rights Complaint System and the Direct Farm Loan Program

We completed a review of the Department's efforts to implement recommendations made by the Office of Inspector General (OIG) to help improve the Department's system for processing civil rights complaints and to improve relations with small and minority farmers. This review was performed as part of our continuing evaluation of the Department's civil rights complaint system. Our objective was to determine the extent of corrective action taken by the Department and to identify actions needed to be completed to resolve the recommendations.

Since December 1996, we have issued 2 evaluation reports and 2 internal memoranda to the Department which contain 44 recommendations. We reached management decisions on 16 of the 44 recommendations. On February 27, 1997, we issued our Phase I report on the civil rights complaint process. We reported that the program discrimination complaint process in the Department lacked integrity, direction, and accountability, and we recommended that immediate actions be taken to reduce the backlog of complaints. On September 29, 1997, we issued our Phase II report. The Phase II evaluation included the review of 11 States and 33 counties. We made recommendations to improve the Department's relations with the minority community through better targeting of outreach efforts, upgrading the status of minority advisors to the county committee, and increasing the workforce diversity at the local level.

To accomplish the objective of our review, we met and discussed corrective action initiatives with officials from the Office of Civil Rights (OCR), Rural Development (RD), and Farm Service Agency (FSA). We asked the officials to provide us with documentation of corrective action already taken or to provide us with corrective action plans including timeframes for implementation. We obtained from RD and FSA the number of open complaints and their status and the number of complaints closed since January 1997, to compare with data maintained by OCR. We also obtained information on OCR's plan to reduce the backlog of complaints and its efforts to implement a new process for processing complaints.

We found that the Department, through OCR, has measurably improved its system for processing civil rights complaints. It has developed a more reliable data base of complaints, hired additional staff, and informed all complainants of the status of their cases. FSA has also put in place several new procedures that should improve relations with the minority farm community.

Nevertheless, some of our original concerns continue. FSA has not completed its task of re-engineering its farm program operations, and OCR has not corrected all deficiencies in its complaints system. Two areas in particular are critical: OCR needs to formally institute a process to reconcile the outstanding complaints it has on file with those listed by the individual Department agencies, and it needs to publish regulations describing how discrimination complaints should be processed. Reconciling complaints and publishing regulations governing the complaints process are vital to maintaining accountability within the system.

### **UNRESOLVED CIVIL RIGHTS RECOMMENDATIONS - COMMITMENT TO CORRECTIVE ACTION NEEDED**

The following are the recommendations we made, by Agency and report, on which we have not reached management decision. Included are the corrective actions needed to reach management decision. We will continue to monitor the agencies' responses to these recommendations as well as the progress the Department makes toward strengthening its commitment to civil rights.

#### **OFFICE OF CIVIL RIGHTS**

##### ***Management Alert to the Secretary, dated February 25, 1997***

#### **Finding: Suspension of Foreclosure Actions**

##### **Recommendation 1:**

FSA State Executive Directors should discontinue their review of discrimination in the farm credit programs.

##### **OCR Response:**

An Independent Review Team was established to review FSA State Executive Directors' certifications that there is no evidence of inconsistencies in the delivery of farm loan programs or no evidence of a discrimination complaint, written or oral (FSA Notice FC-114). This Independent Review Team was established in April 1997 and was disbanded in September 1997. The team was made up of departmental personnel with either program or civil rights experience. The team reviewed 3,148 State Executive Directors' certifications (FSA Notice FC-114). This represented about 73 percent of all the FSA Notice FC-114 completed by the States. The States did not forward all of their cases to the team for review.

As a result of the team review, FSA put 116 foreclosures on hold. The team found 93 cases which required further 1951-S servicing, 20 cases involving Indian Trust Land, and 28 cases which involved a civil rights program complaint. These cases are still pending.

Since September 1997, the State Food Agriculture Committee, made up of representatives from FSA, RD, and the Natural Resources and Conservation Service, are performing the independent reviews.

**OIG Position:**

To reach management decision, OCR should instruct FSA to forward the cases not reviewed by the Independent Review Team to the State Food Agriculture Committee for its review. OCR needs to provide us with timeframes for completion of these reviews.

**Recommendation 3:**

The independent group should re-review the 734 cases reviewed by the State Executive Directors.

**OCR response:**

The Independent Review Team re-reviewed 552 of the 734 cases reviewed by the State Executive Directors as of the date of our management alert. The States did not submit all of their cases to the team for review.

**OIG Position:**

To reach management decision, OCR should instruct FSA to forward the cases not reviewed by the Independent Review Team to the State Food Agriculture Committee for its review. OCR needs to provide us with timeframes for completion of these reviews.

*Evaluation Report for the Secretary on Civil Rights Issues - Phase I, Report No. 50801-2-Hq(1) February 27, 1997*

**Finding: Immediate Actions Needed to Clear Complaints Backlog**

**Recommendation 1 (Immediate-Action):**

The Secretary should convene an ad hoc team headed by a high-ranking departmental official acting on behalf of the Secretary to process civil rights complaints until the backlog is reduced to a manageable level.

**OCR Response:**

An ad hoc team was assembled in April 1997, and reported to the Director of OCR. The team reviewed discrimination complaint case files and found them in disarray. The team's recommendations were rejected by the Director of OCR because the complaints were never properly investigated. OCR has since hired additional staff and contracted with 10 firms to investigate the backlog of civil rights complaints. OCR defines the backlog as complaints which were received prior to November 1, 1997.

**OIG Position:**

To reach management decision, OCR needs to provide OIG with an adequate plan to significantly reduce the backlog of complaints within a reasonable timeframe.

**Recommendation 1(c) (Immediate-Action):**

OCR should reevaluate all discrimination complaints closed and forwarded to program managers by FSA without concurrence from the Civil Rights Enforcement and Adjudication Branch (Program Investigation Division).

**OCR Response:**

OCR has processed 21 of the 26 cases we noted in our review. Of the 26 cases, 14 have been closed by the Department, and 7 are currently active. OCR has no record of what happened to the five remaining cases.

**OIG Position:**

To reach management decision, OCR needs to locate and reevaluate the five remaining cases.

**Recommendation 1(d) (Immediate-Action):**

OCR should determine the number of outstanding program complaints at FSA and other departmental agencies with the assistance of the agencies.

**OIG Position:**

This recommendation has not been implemented. To date, OCR has no formalized system in place to reconcile its outstanding program complaints with the listings at the individual agencies. OCR currently has a stopgap data base in place which breaks down the complaints by agency. However, we attempted to reconcile a list of open complaints obtained from FSA with OCR's listing of FSA complaints from their master data base. We identified 67 complaints on FSA's listing which were not on OCR's listing, and we noted 174 complaints on OCR's listing which were not on FSA's listing. Also, 14 cases that FSA's listing shows as open are shown as closed in OCR's listing.

We performed a similar reconciliation with RD. RD provided us with a listing of open cases, dated February 25, 1998. We obtained a listing from OCR of active RD and Rural Housing Service cases, dated February 25, 1998. We identified 74 cases on OCR's listing which were not on RD's listing. Also, we found 147 cases on RD's listing which were not on OCR's.

We cannot determine, with a reasonable degree of certainty, how many complaints either FSA or RD have, because their complaints have not been recently reconciled with OCR's data base.

In addition, during several congressional hearings and other public forums, Department officials have repeatedly misstated the number of open program complaints and the number of complaints closed by the Department.

These instances show the need for a formalized reconciliation process. An accurate count of program complaints is not possible without a formal reconciliation process. As of February 10, 1998, FSA's listing of open complaints totalled 384. As of February 18, 1998, OCR's data base for active FSA complaints showed 499, a 30-percent increase over FSA's list. As of February 25, 1998, RD's listing of open complaints totalled 301. OCR's data base showed 223, a 26-percent decrease from RD's listing.

OCR's request for a new computer system was being considered. The new computer system would allow for easier reconciliations. Until the new computer system is in place and functioning properly, OCR should manually reconcile their lists with those obtained from each of the agencies on a weekly basis. In order to reach management decision, OCR needs to develop a plan of action to implement procedures for performing reconciliations on a weekly basis.

**Recommendation 1(f) (Immediate-Action):**

OCR should process complaints still at the agency level. This would primarily involve performing preliminary inquiries and readying cases for the final analysis to determine if the complainants have been discriminated against.

**OIG Position:**

OCR provided us with a listing of 1,118 cases as of February 18, 1998. At the time, this listing included all complaints, both open and closed, backlogged and new. (OCR

considers cases received after November 1, 1997, as new.) This listing also included the status of each of these complaints. We broke this number down as follows:

	Backlogged	New	Total
Closed	221	5	226
Final Report Submitted	9	0	9
Revised Report Submitted	25	0	25
Draft Report Submitted	80	3	83
Sent Out for Investigation	127	11	28
Investigation Not Yet Begun	<u>626</u>	<u>21</u>	<u>647</u>
Total	1,088	30	1,118

OCR should continue to strive to reduce the backlog of complaints to a manageable level. To reach management decision, OCR needs to provide OIG with an adequate plan to significantly reduce the backlog of complaints within a reasonable timeframe.

**Recommendation 1(g) (Immediate-Action):**

OCR should reduce the backlog of complaints at the departmental level. This would include conducting analysis of preliminary inquiries and recommending findings of discrimination or nondiscrimination. Program specialists should not analyze their own preliminary inquiries. OCR management should make the final determination of discrimination or nondiscrimination.

**OCR Response:**

The Department has committed significant resources to reduce the backlog of complaints. OCR has increased its staff to address the backlog of program complaints. Currently, OCR's Program Investigations Division is staffed by 43 permanent employees, 7 temporary employees, 6 employees detailed from other agencies, and 17 part-time law students. Also, OCR has revoked the authority for agencies to conduct preliminary inquiries. The Department has given OCR the authority to make final determinations on cases of program discrimination.

**OIG Position:**

To reach management decision, OCR needs to provide OIG with an adequate plan to significantly reduce the backlog of complaints within a reasonable timeframe.

**Recommendation 1(h) (Immediate-Action):**

OCR should evaluate each agency's civil rights staffing to determine if the agency has committed adequately trained staff and has adequate procedures to process complaints. The procedures should hold staff responsible for processing complaints within established timeframes.

**OCR Response:**

OCR has hired additional staff to perform both compliance reviews of agency programs and to evaluate agency's civil rights staff. To date the staff has conducted two compliance reviews.

**OIG Position:**

To reach management decision, OCR has to provide OIG with a plan and timeframes to review each agency's civil rights staff. Furthermore, OCR's plan, procedures, and criteria for evaluation of agency civil rights staff should be included in Departmental Regulation 4330-1.

**Finding: Comprehensive Plan Needed to Address Future Program Complaints****Recommendation 3: (Long-Term)**

A weekly distribution of an aging report of complaints should be sent to responsible officials. This report should be used as a management tool to identify trends or situations in need of attention.

**OIG Position:**

The Department does not produce weekly aging reports of complaints as recommended. This needs to be accomplished to keep responsible officials aware of the extent of the backlog of outstanding complaints, new complaints filed, and the number of complaints that have been recently resolved. To reach management decision for this recommendation, OCR needs to issue instructions requiring the preparation of weekly aging reports of complaints.

**Recommendation 5 (Long-Term):**

Federal and departmental regulations on processing program discrimination complaints for federally-assisted and federally-conducted programs need to be updated and published.

**OCR Response:**

Departmental regulations on the processing of complaints are being finalized in conjunction with the Office of General Counsel. The regulations need to be published in the Federal Register and then reissued in final form after there has been opportunity for comments. The agency expect the regulations to be finalized by February 1999.

**OIG Position:**

This recommendation has not been implemented. We noted that the Department's codified regulations, 7 CFR part 15 - Nondiscrimination, which set forth USDA's policy of nondiscrimination for federally-assisted and federally-conducted programs regarding Title VI of the Civil Rights Act of 1964 and other civil rights laws, are outdated and do not accurately reflect current departmental agencies, programs, and laws. This regulation is vital to the establishment of a successful Department complaint system. The regulation should include the departmental agencies, programs (federally-assisted and federally-conducted), and civil right laws which USDA has the authority to enforce.

Also, the regulation should describe the complaint process governing the receipt, processing, and resolution of complaints within established timeframes.

OCR has hired staff to develop policies and procedures. OCR needs to provide a comprehensive action plan with a time-line for the revision and publication of 7 CFR, part 15, and Departmental Regulation 4330-1. In addition, to reach management decision, OCR needs to issue the revised regulations in final form.

**Recommendation 6 (Long-Term):**

Agencies should develop a comprehensive management evaluation review system designed to evaluate civil rights compliance at all levels.

**OIG Position:**

OCR has convened a staff and assigned it the responsibility for reestablishing the departmental civil rights compliance review system. This staff will also reestablish the Department policies and guidelines for conducting civil rights program compliance reviews of all agencies' programs. OCR officials stated that they plan to have the revised procedures and guidelines in place by October 1998.

The procedures will include factors that may influence the selection of locations to perform compliance reviews. These factors may include, but are not limited to; special requests from departmental and agency officials, demographic and program participation, the number of civil rights complaints filed in proportion to participation, the location of field offices, and the number and types of programs offered at the field offices.

Since the establishment of OCR in May 1997, the staff has conducted two civil rights compliance reviews. OCR reviewed programs administered by FSA, RD, Natural Resources and Conservation Service, and Cooperative State Research, Education, and Extension Service at several locations in the Virgin Islands and Oklahoma. OCR is working to finalize and issue the reports. OCR plans to conduct an additional eight reviews by September 30, 1998.

To reach management decision, OCR needs to issue the procedures and guidelines for conducting compliance review as a departmental regulation.

*Evaluation Report - Minority Participation in Farm Service Agency's Farm Loan Programs - Phase II, Report No. 50801-3-Hq, September 27, 1997*

**Finding No. 1: Additional Actions Needed to Reduce the Backlog of Civil Rights Complaints**

**Recommendation 1(b):**

Ad hoc teams should be convened (composed of adequately trained and experienced Department personnel directed by OCR) to process and significantly reduce the backlog of outstanding discrimination complaints. The preliminary inquiries should be performed by the teams in accordance with established procedures and be sufficiently detailed to draw conclusions and make recommendations to OCR for action.

**OIG Position:**

We assessed OCR's corrective action in our response to Recommendation No. 1 (Immediate-Action) in our Phase I report. To reach management decision, OCR needs to provide OIG with an adequate plan to significantly reduce the backlog of complaints within a reasonable timeframe.

**Finding No. 2: FSA Lacks Independence and Objectivity in the Civil Rights Investigation Process****Recommendation 2:**

OCR should revoke the delegation of authority that granted FSA responsibility to conduct preliminary inquires of program discrimination complaints. OCR should retain this authority on a permanent basis and ensure that its staff is adequately trained to perform the preliminary inquires.

**OCR Response:**

OCR has revoked USDA agencies' authority to conduct preliminary inquires. OCR requires that all program complaints be filed with its Program Investigations Division. OCR will then forward complaints to each agency's civil rights director. The agency will have 24 days to prepare and submit to OCR the agency response to the complaint. The agency has the opportunity to resolve the complaint through a settlement agreement. Based on the agency's response, OCR can decide to close the complaint or perform a preliminary inquiry or investigation.

OCR has organized a staff identified as the "Intake Team" which is responsible for processing and resolving all new complaints filed or forwarded to OCR after November 1997. The Intake Team is staffed by a Director and two EO Specialists.

FSA also has plans to reduce its backlog of complaints and to assist in processing new complaints (see Recommendation 1(b) Immediate Action, Phase I Report).

An OCR official informed us that about 22 complaints have been forwarded to 3 agencies' civil rights staffs (RD, FSA, and the Food Nutrition Service), but OCR has yet to receive a response. All three civil rights staffs have exceeded the 24-day timeframe.

In January 1998, OCR provided about 10 hours of training to its staff as part of its orientation program. The orientation did not specifically address investigative procedures, techniques or strategies for conducting preliminary inquiries, or investigations of program complaints.

**OIG Position:**

To reach management decision, OCR needs to establish a training plan for its investigative staff and provide us with timeframes for completion of this training.

*Memorandum - Minority Participation in Farm Service Agency's Farm Loan Program - 50801-3-Hq, December 18, 1997*

This memorandum provided information about situations we found in which actions involving loan-making, loan-servicing, foreclosure proceedings, and employee conduct may have adversely affected minorities. These situations were disclosed during our Phase II review and were limited to particular locations.

The memorandum contained nine recommendations for OCR to review and take action on, as deemed appropriate. OCR officials informed us that they intend to perform comprehensive civil rights compliance reviews at the cited locations and will instruct FSA to take disciplinary action against agency personnel when warranted.

To reach management decision on the memorandum recommendations, OCR needs to provide us with a plan and timeframes for performing these compliance reviews.

## **FARM SERVICE AGENCY**

*Evaluation Report - Minority Participation in Farm Service Agency's Farm Loan Programs - Phase II, Report No. 50801-3-Hq, September 27, 1997*

### **Finding No. 3: Outreach Efforts Need to be Better Targeted**

#### **Recommendation 3:**

FSA should develop and implement effective methods of outreach and establish uniform standards and benchmarks by which to evaluate outreach performance.

#### **FSA Response:**

FSA agrees that its outreach efforts are a key to correcting a number of the problems identified in OIG's report and that these efforts should be extended to all producers whose socio-economic status makes them eligible to participate in farm loan programs. In 1996, FSA established an Outreach Staff to coordinate the agency's outreach efforts. FSA is considering the designation of FSA outreach coordinators at the State office level to work closely with FSA's Outreach Staff to accomplish the agency's outreach goals and to provide a means for the ongoing development of uniform standards and benchmarks to evaluate outreach performance. In addition, FSA plans to provide outreach training to FSA employees and committee members, including minority advisors to ensure they understand their functions and responsibilities in this area. FSA plans to have the policies revised and the training completed by September 30, 1998.

#### **OIG Position:**

To reach management decision, FSA needs to provide OIG with its plan to establish State outreach coordinators, or with any alternative plan to accomplish outreach goals. FSA's plan should include timeframes for the development of uniform standards and benchmarks to evaluate outreach performance.

## **Finding No. 5: Nondiversity of Office Staffs Concerns Minority Applicants**

### **Recommendation 5:**

FSA should work to increase the number of minority employees in FSA county offices where minority groups are underrepresented.

### **FSA Response:**

FSA recognizes that the diversity of the workforce does not directly follow the diversity of the population served. FSA shall strive to improve diversity in its workforce by ensuring that underrepresented groups are informed of career opportunities and by actively seeking minority candidates for county office positions and county office trainee positions.

### **OIG Position:**

To reach management decision, FSA needs to provide OIG with an equal employment opportunity action plan with timeframes.

## **Finding No. 6: Application Requirements Frustrate Borrowers**

### **Recommendation 6a:**

FSA should establish pre-application interviews with prospective applicants to determine the nature of their request and help identify information needed to complete the application process.

### **FSA Response:**

Regulations currently in place and re-engineering initiatives underway address the concerns raised by OIG. Additionally, FSA works closely with those institutions that are recipients of USDA 2501 grants. Many applicants receive assistance from these institutions in completing applications, and in some situations, prospective applicants are referred to the 2501 program staff by the agency for technical assistance, including completion of financial information. Pre-application interviews in every situation will create additional demands on limited staff resources and result in additional delays in loan-processing and servicing. Further, many applicants will perceive a mandatory pre-application interview as an additional step and barrier in the application process.

### **OIG Position:**

OIG recognizes that USDA 2501 grantees provide assistance to applicants in some counties. OIG still believes that FSA should provide pre-application interviews when requested by the applicant when institutions such as 2501 grantees are not available to provide assistance. The applicant should be notified upon receipt of an application that a pre-application interview is available. Applicants informed us during our review that assistance was not given to help them complete their applications. A pre-application interview would let FSA employees know what type of assistance is needed to help the applicant complete the loan application. To reach management decision, FSA needs to instruct FSA personnel to advise applicants that pre-application interviews are available upon request.

**Recommendation 6b:**

FSA should establish an assistance program that includes provisions for one-on-one attention between the loan officer and the farmer, and for farm visits, if necessary, to help farmers prepare information needed to complete application packages.

**FSA Response:**

Regulations currently in place and re-engineering initiatives underway address the concerns raised by OIG. The agency believes that existing procedures, recent changes to the application form, streamlining, and re-engineering initiatives presently underway adequately address this recommendation.

**OIG Position:**

To reach management decision, FSA needs to provide OIG with the plan and time-line for the re-engineering initiatives that address this recommendation.

**Finding No. 7: Greater Technical Assistance Needed In Loan-Making and Loan Servicing****Recommendation 7c:**

FSA should incorporate a review of civil rights issues in its formal National Internal Reviews and County Operations Reviews, and have district directors address civil rights issues when conducting periodic reviews of loan service centers and county offices.

**FSA Response:**

FSA concurs with this recommendation. The agency will immediately revise the National Internal Review to include a review of accelerated accounts to ensure that inequitable treatment did not contribute to acceleration of the account. FSA will also revise the County Operations Review requirements to include civil rights. A notice will also be issued to require district directors to address civil rights issues when conducting periodic review of loan service centers and county offices. The revised National Internal Review guide will be completed and distributed for field use in October 1998.

**OIG Position:**

OIG agrees with FSA's response. To reach management decision, FSA needs to provide OIG with the timeframes for revising the County Operations Review guide and issuing the notice to the district directors requiring them to address civil rights issues during their periodic review of loan service centers and county offices.

## **Finding No. 8: FSA's Method of Redistributing Funds Needs Improvement**

### **Recommendation 8c:**

FSA should discontinue the process of informally transferring funds between States and return all unused funds to the National office for redistribution as appropriate.

### **FSA Response:**

The ability of States to trade/transfer loan funds enables applicants whose applications would otherwise go unfunded to receive the necessary credit to maintain their farming operations. In situations when National reserve funding is unavailable, States are empowered to seek funds from sources such as another State where additional funding may be available.

FSA intends to continue this type of transaction because it encourages States to utilize every resource and opportunity available to them in their efforts to assist minority farmers.

### **OIG Position:**

OIG believes that all unused funds should be returned to the National office and redistributed through the National reserve system. OIG's review disclosed that National office officials do not keep records of which loan applications are being funded through this informal funding process. OIG plans to review this informal process and the funding of loans out of the National reserve in the next fiscal year. To reach management decision, FSA has to agreed to maintain for 3 years a list of applicants that have been funded through this informal process, including the loan amount and type.

## **CIVIL RIGHTS RECOMMENDATIONS RESOLVED BASED ON AGENCY'S RESPONSE**

The information contained in 2 OCR's memorandums, dated February 6, 1998 and February 27, 1998, and in FSA's Informational Memorandum to the Secretary, outlines corrective actions implemented and corrective actions planned. In a February 26, 1998, memorandum to OIG, FSA provided timeframes for the completion of mutually agreed-upon corrective action items. The information from both agencies, along with interviews and documents obtained from the agencies' officials, was sufficient to reach management decision on 16 of the 44 recommendations contained in OIG's reports and memoranda. Final actions on the management decisions should be completed within 1 year of the management decision dates.

The following are the recommendation we made, by Agency and report, on which management decision has been reached.

### **OFFICE OF CIVIL RIGHTS**

*Management Alert to the Secretary, dated February 25, 1997*

## **Finding: Suspension of Foreclosure Actions**

### **Recommendation 2:**

An independent group should determine whether discrimination exists in cases where foreclosure action is pending.

### **OCR Response:**

As mentioned above, an Independent Review Team was established to review FSA State Executive Directors' certifications on cases where foreclosure action was pending.

### **OIG Position:**

OCR's response is sufficient to reach management decision.

### **Recommendation 4:**

Foreclosure action should be suspended on the three cases we identified in our review.

### **OCR Response:**

FSA suspended foreclosure action on two of the three cases we identified. The third producer's property was sold prior to the issuance of our management alert. This producer has an open discrimination complaint.

### **OIG Position:**

OCR's response was sufficient to reach management decision.

*Evaluation Report for the Secretary on Civil Rights Issues - Phase I, Report No. 50801-2-Hq(1) February 27, 1997*

## **Finding: Immediate Actions Needed to Clear Complaints Backlog**

### **Recommendation 1(a) (Immediate-Action):**

OCR should send a letter, signed by the Secretary, to all complainants whose cases have not yet been resolved assuring the complainants that action will be taken.

### **OIG Position:**

This recommendation was also made in our Phase II report because it had not been implemented by the date of that report (September 27, 1997). We assessed OCR's corrective action in our response to Recommendation No. 1(a) in our Phase II report and determined that action was sufficient to reach management decision on this recommendation.

### **Recommendation 1(b) (Immediate-Action)**

OCR should immediately assume control of FSA's program complaint system and evaluate the adequacy of FSA's civil rights staffing to carry out its civil rights mandate.

#### **OCR Response:**

OCR temporarily assumed control of FSA's civil rights staff and the processing of civil rights complaints, from May through November 1997. This function was given back to FSA after FSA agreed to assign more personnel to its civil rights staff.

FSA plans to add additional personnel with civil rights and program experience to its civil rights staff in Washington, D.C. In an effort to process FSA's backlog of complaints, 69 FSA volunteers were assigned to perform fact-finding reviews of discrimination complaints. These volunteers received training to prepare them for their task. OIG provided some of the training.

Also, FSA plans to open an office in Montgomery, Alabama, and staff it with about 15 program complaints specialist and 1 Branch Chief. The Branch Chief will report to the Director of Civil Rights in Washington, D.C. The Program Complaints Specialist will perform fact-finding reviews on discrimination complaints.

#### **OIG Position:**

OCR's response was sufficient to reach management decision. OIG plans to continue to monitor the changes made by FSA.

### **Recommendation 1(e) (Immediate-Action):**

OCR should develop a data base for the outstanding program complaints. The data base should contain the status of a complaint, the official responsible for processing the case, the actions taken to date, the actions needed to resolve the complaint, the days taken to complete specific tasks, and the age of the complaint.

#### **OIG Position:**

The data base currently used by OCR includes all the elements in our recommendation. This is sufficient to reach management decision for this recommendation.

### **Finding: Comprehensive Plan Needed to Address Future Program Complaints**

#### **Recommendation 1 (Long-Term):**

OCR should establish a uniform system within the Department that holds designated USDA officials responsible and accountable for the receipt, processing, and resolution of program complaints within established timeframes. The system should be monitored, controlled, and evaluated by a unit within the Department that reports directly to the Secretary or Deputy Secretary.

**OCR Response:**

The Secretary established the Office of Civil Rights on May 16, 1997, and gave its Director full responsibility for the investigation, adjudication, and resolution of discrimination complaints arising from USDA employment activities or in the context of conducted or assisted programs.

**OIG Position:**

OCR's response is sufficient to reach management decision.

**Recommendation 2 (Long-Term):**

A master data base for program complaints should be maintained at the departmental level. The data base should include the type of complaint, program involved, key dates associated with the complaint process, status of the complaint, age of complaint, location of complainant, and other key data elements. Each complaint should be assigned a unique case number, which would also be recorded in the data base and used to monitor the case from receipt to resolution. This data base should be shared with agencies on a periodic basis to ensure its accuracy.

**OIG Position:**

We addressed OCR's corrective action in Recommendation No. 1(e) (Immediate-Action). Management decision for this recommendation can be reached.

**Recommendation 4 (Long-Term):**

Case files need to be standardized. For example, correspondence should be kept together and arranged chronologically, running records should act as indices, etc. The case files also need to be secured, and a record maintained showing who has logged out any files for official use.

**OIG Position:**

OCR provided us with office procedures which outline the standardization of the case files. Additional procedures were provided which detail the steps taken to secure the files, complete with a logging system so the location of the files will always be known. We reviewed a number of case files and have determined OCR has initiated their standardization procedures. OCR has also provided us with documentation which shows that seven employees have been assigned the task of organizing the files (among other responsibilities). OCR has provided us with sufficient information to reach management decision for this recommendation.

*Evaluation Report - Minority Participation in Farm Service Agency's Farm Loan Programs - Phase II, Report No. 50801-3-Hq, September 27, 1997*

**Finding No. 1: Additional Actions Needed to Reduce the Backlog of Civil Rights Complaints**

**Recommendation 1(a):**

A letter signed by the Secretary or his designee, should be sent immediately to all complainants whose cases are still open, assuring the complainants that action will be taken. The letter should include an assigned case file number and the name and phone number of a responsible person who knows the general status of the case.

**OCR Response:**

This recommendation was also made in our Phase I report but was repeated again in this Phase II report because the recommendation had not been implemented by the date of the second report.

During the month of November 1997, OCR sent a letter to every complainant informing them of their case number, the status of their complaint, and a contact person to call for additional information. In addition, the letter states that OCR plans to contact the complainant in 90 days concerning the status of his or her case.

**OIG Position:**

OCR's action is sufficient to reach management decision.

**FARM SERVICE AGENCY**

*Evaluation Report - Minority Participation in Farm Service Agency's Farm Loan Programs - Phase II, Report No. 50801-3-Hq, September 27, 1997*

**Finding No. 4: Minority Advisors were Unclear of their Roles**

**Recommendation 4a:**

FSA should appoint minority advisors to the county office committees based on recommendations from the underrepresented groups in the county.

**FSA Response:**

FSA stated that soliciting candidates for advisors from the minority community or underrepresented groups is the process that FSA has always intended to follow in appointing the advisors. It will provide guidance, by April 1, 1998, to ensure this process is followed in all cases in the future.

**OIG Position:**

FSA's response is sufficient to reach management decision.

**Recommendation 4b:**

FSA should provide training so that minority advisors are aware of their responsibilities to inform minority individuals and farmers about FSA programs and activities.

**FSA Response:**

FSA does recognize that some States do not include advisors in their annual orientation training of county office committees. Beginning with the 1997 election year, FSA will instruct the States to ensure that minority advisors are included in the annual orientation training of county office committees and that special emphasis will be given to advisors, including outreach. Also, training for all minority advisors that have not had orientation training will be completed by September 30, 1998.

**OIG Position:**

FSA's response is sufficient to reach management decision.

**Finding No. 6: Application Requirements Frustrate Borrowers****Recommendation 6c:**

FSA should discontinue county office committee involvement in determining creditworthiness of farm applicants.

**FSA Response:**

The agency issued Notice FC-142 on September 11, 1997, which clarified that the loan approval official will make determinations of acceptable credit history in both direct and guaranteed programs. FSA will incorporate this provision into its regulations, and reissue the notice as necessary to keep it in effect until revised regulations are in place.

**OIG Position:**

FSA's response is sufficient to reach management decision.

**Finding No. 7: Greater Technical Assistance Needed In Loan-Making and Loan Servicing****Recommendation 7a:**

FSA should establish and maintain a tracking system to monitor the servicing of farm loan accounts, especially in connection with delinquency rates and borrower responses to notification of availability of loan service programs, and to ensure equality in the servicing of all farm loan accounts.

**FSA Response:**

FSA concurs with this recommendation and is in the process of placing their automated loan service tracking system (AGCREDIT) on the agency's mainframe computer so that the loan servicing history

will be available for inspection by the National and State offices. This project will be completed no sooner than October 1998. However, when it is completed, the agency will have the ability to monitor borrower responses in connection with delinquency rates and racial and gender categories.

**OIG Position:**

FSA's response is sufficient to reach management decision.

**Recommendation 7b:**

FSA should make personal contact with those borrowers who do not respond to the notifications or the requests for information within the prescribed timeframes, and ensure that the borrowers fully understand the significance of the notifications and the requirements for acquiring loan-servicing.

**FSA Response:**

FSA does not agree with this recommendation as written. Contacting borrowers after they fail to respond to the loan-servicing notices within the statutory timeframe will be of no benefit. Instead, FSA proposes issuing a notice and revising the agency handbook to require the agriculture credit manager to contact the borrower within 10 working days after the initial loan-servicing notice is sent to:

- ! determine if the borrower received the application material,
- ! remind the borrower of the importance of responding with a complete application within the required timeframe, and
- ! answer any questions which the borrower might have.

A record of this contact will be maintained in the case file. This notice will be issued by March 31 and will be reissued as necessary to remain in effect until a servicing handbook, projected for completion in December 1999, can be developed and revised.

**OIG Position:**

FSA's response is sufficient to reach management decision.

**Finding No. 8: FSA's Method of Redistributing Funds Needs Improvement**

**Recommendation 8a:**

FSA should seek legislation to "pool" Socially Disadvantage Applicants (SDA) direct operating loan funds into the National Reserve to redistribute to States with unfunded approved direct operating loan applications.

**FSA Response:**

The agency has submitted proposed legislation consistent with this recommendation to the Department on several occasions, most recently in October of 1997.

**OIG Position:**

In February 1998, the Department also proposed legislation to allow FSA to "pool" SDA funds between States. FSA's response is sufficient to reach management decision.

**Recommendation 8b:**

FSA should develop procedures to establish a recordkeeping system for loan applications that are funded from the National Reserve. This recordkeeping system should be used to justify the loans that are funded, document loan requests that go unfunded, and determine if reallocation of State allocations is desirable to best utilize available funds.

**FSA Response:**

FSA's National office maintains a listing of the dollar amounts distributed from the National Reserve on an annual basis. The National office does not maintain a record of all individual applications receiving reserve funds.

The present system utilized by the National office to maintain reserve records provides an adequate management tool to determine the need for a pooling action. FSA agrees that reserve records including any lists of applicants, which have been funded with reserve funds, should be maintained for 3 years. This practice has been implemented.

**OIG Position:**

FSA's response is sufficient to reach management decision.

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The corrective actions outlined above have shown the Department's determination to move forward on the issue of civil rights and to recognize fairness in all dealings with members of the farm community and the public at large. OIG commends this determination.